

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Tymur Dubnyskyy,

Civ. No. 14-5025 (DWF/JJK)

Petitioner,

v.

**REPORT AND
RECOMMENDATION**

U.S. Department of Homeland Security
& Immigration Customs Enforcement;

Respondent.

Tymur Dubnyskyy, *pro se* Petitioner;

Pamela Marentette, Esq., Assistant United States Attorney, counsel for
Respondent.

JEFFREY J. KEYES, United States Magistrate Judge

This matter is before the Court on Petitioner Tymur Dubnyskyy's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. (Doc. No. 1, Pet.) This case has been referred to this Court for a Report and Recommendation under 28 U.S.C. § 636 and D. Minn. LR 72.1. Respondent now moves to dismiss the Petition as moot because the Petitioner has been released from ICE custody. (Doc. No. 9.) For the reasons discussed below, this Court recommends that Dubnyskyy's Petition be dismissed as moot.

At the time Petitioner commenced this action under 28 U.S.C. § 2241, on December 19, 2014, he was being held in ICE custody at the Sherburne County Jail pending deportation to Ukraine, his country of origin. Petitioner's removal is

not contested in the Petition, but he alleges that he had been taken into immigration custody on September 17, 2013, and that he had been held in custody more than seven months after his removal order became final on April 29, 2014. The Petition asserts that the duration of the detention exceeds the presumptively reasonable period of time provided in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

Respondent moves to dismiss the petition on grounds that Petitioner has been released from custody and the habeas corpus petition is now moot. The court is advised that Petitioner was released from ICE custody on December 24, 2014. (Marentette Decl., Ex. 1.) Petitioner has not responded or expressed opposition to the motion. Under these circumstances the Petitioner has obtained the relief he requested and the Petition is moot.

RECOMMENDATION

Based on the above, and on all the files, records, and submissions herein,
IT IS HEREBY RECOMMENDED that:

1. Respondent's Motion to Dismiss be **GRANTED** (Doc. No. 9);
2. The Petition for Writ of Habeas Corpus be **DENIED AS MOOT** (Doc. No. 1); and
3. This case be **DISMISSED WITH PREJUDICE**.

Dated: March 2, 2015

s/ Jeffrey J. Keyes
JEFFREY J. KEYES
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **March 16, 2015**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within **fourteen days** after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.